

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

TRI-STATE CARBONIC, LLC)
)
Plaintiff,)
)
vs.) No. 4:13-cv-00047-RLY-DML
)
AIR LIQUIDE INDUSTRIAL U.S. LP,)
)
Defendant.)

PLAINTIFF'S REPORT TO COURT

Comes now Plaintiff, by counsel, Richard A. Butler, and in accordance with the Court's order to show cause why Plaintiff should not be sanctioned for failure to appear at the initial pre-trial conference on June 19, 2013 at 9:00 o'clock a.m. shows the Court that:

1. Plaintiff's failure to appear was the result of the inadvertence of Plaintiff's counsel, not any lack of respect for the Court, Defendant, or Defendant's counsel. At Plaintiff's request, the initial pre-trial conference was continued from May 31, 2013 at 11:00 o'clock a.m. to June 19, 2013 at 9:00 o'clock a.m. Upon receipt of the order continuing the hearing, Plaintiff's counsel moved the matter on his calendar from May 31 to June 19 but inadvertently failed to change the time from 11:00 o'clock a.m. to 9:00 o'clock a.m.

2. Plaintiff's counsel worked with Defendant's counsel to timely prepare and submit a proposed case management plan consistent with the June 19 initial pre-trial conference, demonstrating Plaintiff's knowledge of the June 19 initial pre-trial conference and respect for the Court's orders.

3. Plaintiff's counsel called the Court a few minutes before 11:00 o'clock a.m. on June 19 and spoke to a pleasant member of the Court's staff demonstrating Plaintiff's counsel's

erroneous belief the initial pre-trial conference was scheduled for 11:00 o'clock a.m. Plaintiff's counsel realized his error when he looked at the order again just before calling the Court.

4. Further, Plaintiff shows the Court that Plaintiff is a solo-practitioner and has been out of the office on vacation from Friday, June 21, 2013 until today, Tuesday, July 2, 2013, and unable to respond to the Court's order until today.

5. Finally, Plaintiff's counsel apologizes to the Court, the Court's staff, the Defendant, and Defendant's counsel for inconveniencing them and wasting, at least partially, their time by failing to appear as ordered.

WHEREFORE, Plaintiff respectfully requests that neither it nor its counsel, Richard A. Butler be sanctioned for failing to appear as ordered.

Respectfully submitted,

Richard A. Butler
Attorney No. 16668-45
Attorney for Plaintiff
310 West High Street
Lawrenceburg, Indiana 47025
Telephone: (812)537-9820
Facsimile: (812)537-1937
E-mail: richard@rbutlerlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd of July, 2013, a copy of the foregoing was filed electronically.

Notice of this filing will be sent to the following party by operation of the Court's electronic filing system. The party may access this filing through the Court's system. In addition, a copy of this filing has been sent via U.S. mail, addressed to:

Frederick D. Emhardt
Shelley M. Jackson
Plews Shadley Racher & Braun, LLP
1346 n Delaware Street
Indianapolis, Indiana 46292